



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

DEC 22 2017

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

John Thiersch, Vice President of Engineering & Technical Services
BWAY Corporation
3200 S. Kilbourn, Chicago, IL 60623
Chicago, Illinois, 60623

Re: Finding of Violation
BWAY Corporation
Chicago, Illinois

Dear Mr. Thiersch:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to BWAY Corporation (you) under Section 113(a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(3). We find that you are violating the National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans, 40 C.F.R. Part 63, Subpart KKKK, at your Chicago, Illinois facility.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the FOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Muhammed Shuaibi. You may call him at (312) 353-2075 to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward Nam", written in a cursive style.

Edward Nam
Director
Air and Radiation Division

Enclosure

cc: Julie Armitage, Chief, Bureau of Air
Illinois Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

BWAY Corporation
Chicago, Illinois

Proceedings Pursuant to
Section 113(a)(1) of the
Clean Air Act, 42 U.S.C.
§ 7413(a)(1)

FINDING OF VIOLATION

EPA-5-18-IL-03

FINDING OF VIOLATION

The U.S. Environmental Protection Agency (EPA) is issuing this Finding of Violation under Section 113(a)(3) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a)(3). EPA finds that BWAY Corporation is violating the National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans, 40 C.F.R. Part 63 Subpart KKKK, as follows:

Statutory and Regulatory Background

National Emission Standards for Hazardous Air Pollutants

1. Section 112 of the Act, 42 U.S.C § 7412(c), requires EPA to promulgate a list of all categories and subcategories of new and existing “major sources” of hazardous air pollutants (HAP), as defined by 42 U.S.C. § 7412(a)(1), and establish emission standards for the categories and subcategories. These emission standards are known as the National Emission Standards for Hazardous Air Pollutants (NESHAP).
2. “Major source” is defined as “any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.” 42 U.S.C. § 7412(a)(1).
3. “Stationary source” is defined as “any building, structure, facility, or installation, which emits or may emit any air pollutant.” 42 U.S.C. §§ 7411(a)(3) and 7412(a)(3).
4. “Hazardous air pollutant” is defined as “any air pollutant listed in or pursuant to” Section 112(b) of the Act. 42 U.S.C. § 7412(a)(6).
5. Section 112(i)(3) of the Act, 42 U.S.C. § 7412(i)(3), prohibits any person subject to a NESHAP from operating a source in violation of a NESHAP after its effective date. *See also* 40 C.F.R. §§ 61.05 and 63.4.
6. 40 C.F.R. Part 63, Subpart A, contains the General Provisions for the NESHAP.

7. 40 C.F.R. § 63.6(e)(1)(i) provides that the owner or operator must operate and maintain an affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions at all times.

NESHAP for Surface Coating of Metal Cans

8. Under Section 112 of the Act, 42 U.S.C. §7412, EPA promulgated the NESHAP for Surface Coating of Metal Cans at 40 C.F.R. §§ 63.3480 through 63.3561 (NESHAP KKKK).
9. 40 C.F.R. § 63.3481(a) provides, among other things, that the source category to which the NESHAP KKKK applies is surface coating of metal cans and ends (including decorative tins) and metal crowns and closures.
10. 40 C.F.R. § 63.3481(b) provides that the NESHAP KKKK applies to owners and operators of a new, reconstructed, or existing affected source, as defined in 40 C.F.R. § 63.3482, that uses 5,700 liters (1,500 gallons (gal)) per year, or more, of coatings in the source category defined in paragraph (a) of this section and that is a major source, is located at a major source, or is part of a major source of emissions of hazardous air pollutants (HAP).
11. 40 C.F.R. § 63.3482 provides that the NESHAP KKKK applies to affected sources as described therein:
 - (a) applies to each new, reconstructed, and existing affected source.
 - (b) The affected source is the collection of all of the items listed in paragraphs (b)(1) through (4) of this section that are used for surface coating of metal cans and ends (including decorative tins), or metal crowns or closures:
 - (1) All coating operations as defined in [40 C.F.R.] § 63.3561;
 - (2) All storage containers and mixing vessels in which coatings, thinners, and cleaning materials are stored or mixed;
 - (3) All manual and automated equipment and containers used for conveying coatings, thinners, and cleaning materials; and
 - (4) All storage containers and all manual and automated equipment and containers used for conveying waste materials generated by a coating operation.

(c) An affected source is a new affected source if you commenced its construction after January 15, 2003 by installing newcoating equipment. New coating equipment is equipment used to perform metal can surface coating at a facility where no metal can surface coating was previously performed and the construction is of a completely new metal can surface coating source where previously no metal can surface coating source had existed.

(d) An affected source is reconstructed if you meet the criteria as defined in [40 C.F.R.] § 63.2.

(e) An affected source is existing if it is not new or reconstructed.

12. 40 C.F.R. § 63.3491 states that a compliance option listed in paragraphs (a) through (d) of this section must be used to determine compliance with emissions limits established for surface coating operations.
13. 40 C.F.R. § 63.3491(d) describes the “Control efficiency/outlet concentration option” for demonstrating compliance with emission limits. It states in part, “[d]emonstrate that, based on the emission reductions achieved by emission capture systems and add-on controls, total HAP emissions measured as total hydrocarbon (THC) are reduced by 95 percent or greater for existing sources, or 97 percent or greater for new or reconstructed sources, or that outlet THC emissions are less than or equal to 20 parts per million by volume, dry basis (ppmvd). If you use this compliance option, you must have a capture device that meets EPA Method 204 of 40 [C.F.R. Part] 51, appendix M criteria for a permanent total enclosure (PTE).”
14. “Capture system” is defined as “one or more capture devices intended to collect emissions generated by a coating operation in the use of coatings, both at the point of application and at subsequent points where emissions from coatings occur, such as flash-off, drying, or curing.” 40 C.F.R. § 63.3561.
15. “Capture device” is defined as “a hood, enclosure, room, floor sweep, or other means of containing or collecting emissions and directing those emissions into an add-on air pollution control device.” 40 C.F.R. § 63.3561.
16. “Coating operation” is defined in part as “equipment used to apply coating to a metal can or end (including decorative tins), or metal crown or closure, and to dry or cure the coating after application. A coating operation always includes at least the point at which a coating is applied and all subsequent points in the affected source where organic HAP emissions from that coating occur.” 40 C.F.R. § 63.3561.
17. 40 C.F.R. § 63.3554 states, “[t]he capture efficiency of your emission capture system must be 100 percent to use the control efficiency/outlet concentration option. You may assume the capture system efficiency is 100 percent if both of the conditions in paragraphs (a) and (b) of this section are met.”

18. 40 C.F.R. § 63.3554(a) states, “[t]he capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and directs all the exhaust gases from the enclosure to an add-on control device.”
19. 40 C.F.R. § 63.3554(b) states in part, “All coatings and thinners used in the coating operation are applied within the capture system, and coating solvent flash-off, curing, and drying occurs within the capture system.”
20. Appendix M to 40 C.F.R. Part 51 includes the following criterion for a PTE: “All VOC emissions must be captured and contained for discharge through a control device.”

Factual Background

21. BWAY owns and operates a steel can manufacturing facility located at 3200 S. Kilbourn, Chicago, Illinois (the Facility).
22. The Facility emits more than 10 tons per year of a single HAP, toluene.
23. The Facility's operations include can coating line “Litho Line #4.”
24. The Facility's can coating line Litho Line #4 uses 5,700 liters (1,500 gallons) per year, or more, of coatings.
25. On September 26, 2017, the Facility informed EPA, via email, that for purposes of demonstrating compliance with the emission limits of NESHAP KKKK, “the plant uses the fourth compliance method- control device efficiency/outlet concentration.”
26. On July 21, 2017, the EPA conducted an inspection at the Facility. Using an infrared camera, EPA recorded footage of uncaptured VOC emissions escaping a capture device at Litho Line #4.

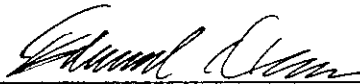
Findings and Violations

27. BWAY's Litho Line #4 is a coating operation as defined at 40 C.F.R. § 63.3561.
28. BWAY's Facility is subject to the NESHAP KKKK.
29. By electing to demonstrate compliance with the control efficiency/outlet concentration option at Litho Line #4, BWAY must have a capture system with capture devices that meet the criteria in Method 204 on its Litho Line #4.
30. By not capturing all VOC emissions at Litho Line #4, BWAY failed to maintain a PTE while using the control efficiency/outlet concentration option, in violation of 40 C.F.R. §§ 63.3491 and 63.3554
31. By failing to operate and maintain the facility's air pollution control system in accordance with good air pollution control practices, BWAY violated and continues to violate 40 C.F.R. § 63.6(e)(1)(i).

Environmental Impact of Violations

32. These violations have resulted in increased emissions of HAPs, including, but not limited to, glycol ethers, toluene, ethylbenzene, xylene, formaldehyde, methyl isobutyl ketone, and naphthalene. Violation of the above-referenced NESHAP may cause serious health effects including birth defects and cancer. HAP emissions may also cause harmful environmental and ecological effects.
33. VOC, along with NO_x, are major precursors in the formation of atmospheric and ground-level ozone, a photochemical oxidant associated with a number of detrimental health effects, including birth defects and cancer, and environmental and ecological effects. In the presence of sunlight, and influenced by a variety of meteorological conditions, VOC and HAP react with oxygen in the air to produce ozone. Although ozone's precursors are naturally occurring in the environment, their existence is greatly enhanced in and around urban areas, such as Chicago, by anthropogenic contributions.
34. Breathing ozone contributes to a variety of health problems including chest pain, coughing, throat irritation, and congestion. It can worsen bronchitis, emphysema, and asthma. Ground-level ozone also can reduce lung function and inflame lung tissue. Repeated exposure may permanently scar lung tissue.

12/22/17
Date



Edward Nam
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I certify that I sent a Finding of Violation, No. EPA-5-18-IL-03, by Certified Mail,


Return Receipt Requested, to:

John Thiersch, Vice President of
Engineering & Technical Services
BWAY Corporation
3200 S. Kilbourn
Chicago, Illinois, 60623

I also certify that I sent copies of the Finding of Violation by e-mail to:

Julie Armitage, Chief, Bureau of Air
Illinois Environmental Protection Agency
Julie.Armitage@Illinois.gov

On the 27th day of December 2017.


for Kathy Jones
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 70091680 0000 7660 6875